

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1510 of 2012

Bhuvaneswari

...Petitioner/Respondent/Petitioner

Vs.

Vel @ Viswanathan

...Respondent/Petitioner/Respondent

Prayer: The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure against the order passed in Crl.R.P.No.11 of 2012 on the file of the Principal District Court, Erode, dated 24.08.2012 modifying the order in M.C.No.12 of 2010 on the file of the District Munsif-cum-Judicial Magistrate Court, Perundurai dated 02.05.2012.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : Notice served - No Appearance

ORDER

The revision petitioner is wife and respondent is husband. The petitioner/wife has filed a maintenance case before the learned District Munsif-cum-Judicial Magistrate, Perundurai, in M.C.No.12 of 2010. The learned Magistrate, after due enquiry, by order dated 02.05.2012, awarded a sum of Rs.2,500/- p.m. as maintenance. Aggrieved against the same, the husband has preferred a revision before the learned Principal District and Sessions Judge, Erode, in Crl.R.P.No.11 of 2012. The learned Principal District and Sessions Judge, after hearing both the parties and after considering the entire materials on record, found that the wife has not proved income of the husband and fixed notional income at Rs.6,000/- and ordered Rs.1,500/- as maintenance. Challenging the order of the learned Principal District and Sessions Judge, the wife has preferred the present revision before this Court.

2 According to learned counsel appearing for the petitioner/wife, the respondent/husband, despite having sufficient means, neglected to maintain the petitioner and therefore she filed a maintenance case. The respondent/husband

is having an Auto and earning Rs.20,000/- p.m. and receiving rental income of Rs.10,000/- and he has Rs.5,00,000/- in his Bank Account. Even though, the learned Magistrate awarded Rs.2,500/- as maintenance, the learned Principal District and Sessions Judge, has reduced the same into Rs.1500/-, which warrants interference.

3 Heard the learned counsel appearing for the petitioner and perused the materials available on record.

4 Even though, it is contended by the learned counsel for petitioner that the respondent is having a own Auto and earning Rs.20,000/- and receiving rental income of Rs.10,000/- and has Rs.5,00,000/- in his Bank Account, the respondent/wife did not produce any document to substantiate the same. It is seen that the petitioner/wife did not put any suggestion before the respondent/husband that he is earning Rs.20,000/- and receiving rental income of Rs.10,000/-. The petitioner has not even examined any tenant, if really, the respondent is having building and let out the same for rent. Therefore the contention raised by the learned counsel for the petitioner is not acceptable.

5 Considering the facts and circumstances of the case and the materials placed before this Court and the submissions made by the learned counsel for the petitioner, this Court does not find any perversity in the order passed by the learned Principal District and Sessions Judge, reducing the maintenance at Rs.1500/-.

6 In the result, the criminal revision case is dismissed as devoid of merit and substance.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

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To

1. The Principal District Court, Erode District.
 2. The District Munsif-cum-Judicial Magistrate, Perundurai.
- +1 CC to Mr.A.K. Kumarasamy, Advocate sr 50426.

Cr1.R.C.No.1510 of 2012

MR (CO)
SP (24/07/2019)